

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

DEREK KIRK,

Plaintiff,

v.

JAMES KEENER,

Defendant.

Case No. 3:17-CV-0334-RCJ-CLB

**ORDER**

Before the court is plaintiff's motion to direct Marshal to mail waiver of service to defendant Keener (ECF No. 56). No response was filed.

Plaintiff's motion (ECF No. 56) is **DENIED** because the U.S. Marshal ("USM") has no procedural mechanism to complete a waiver of service. However, the court notes that the USM's previous return of service indicates that all attempts at service on defendant James Keener were made on weekday mornings and two attempts were made on the same date only two hours apart (ECF No. 55). Therefore, the court will order the USM to make three further attempts to serve defendant Keener on either differing weekday evenings (from 6:00 pm–10:00 pm) and/or on differing weekend days (8:00 am–7:00 pm).

The Clerk shall ISSUE a summons for defendant James Keener and send the same to the USM with the address provided under seal (ECF No. 49) and a copy of this order. The Clerk shall also SEND a copy of the second amended complaint (ECF No. 46), the screening order (ECF No. 45), and this order to the USM for service on the defendant. The Clerk shall also SEND to plaintiff one USM-285 form. Plaintiff shall have until **Friday, November 6, 2020** to complete the USM-285 form and return it to the U.S. Marshall, 400 South Virginia Street, 2<sup>nd</sup> Floor, Reno, Nevada 89501.

1 If plaintiff fails to follow the order, the above-named defendant will be dismissed  
2 for failure to complete service of process pursuant to Fed. R. Civ. P. 4(m).

3 **IT IS SO ORDERED.**

4 **DATED:** October 19, 2020

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UNITED STATES MAGISTRATE JUDGE